

SPECIAL DIRECTIVE 01-10

TO: ALL DEPUTY DISTRICT ATTORNEYS (CRIMINAL)

FROM: STEVE COOLEY
District Attorney

SUBJECT: REFERRAL OF ALLEGATIONS OF CRIMINAL MISCONDUCT
TO THE JUSTICE SYSTEM INTEGRITY DIVISION

DATE: NOVEMBER 7, 2001

In order to ensure that suspicions of criminal misconduct allegedly committed by members of the justice system receive consistent, professional and appropriate review, the Justice System Integrity Division (JSID) has been assigned the responsibility of reviewing all such matters.

This memorandum establishes the procedure that shall be followed whenever a deputy district attorney becomes aware of possible criminal misconduct by any member of the justice system. Members of the justice system include judges, attorneys, law enforcement employees and others whose occupation or job is related to the justice system. These allegations may be discovered when (1) the alleged criminal misconduct is uncovered during the pendency of a criminal case, or (2) a criminal case is presented for filing consideration. This memorandum establishes firm guidelines for appropriate handling under either situation.

PENDING CASES

If, during the pendency of a case, a deputy district attorney becomes aware of possible criminal misconduct by any member of the justice system, the deputy shall immediately notify his or her Head Deputy or Deputy-in-Charge. The deputy district attorney shall prepare a memorandum detailing information and/or evidence suggesting possible criminal misconduct. The memorandum shall be forwarded through the appropriate Head Deputy or Deputy-in-Charge to the Head Deputy of JSID. The deputy district attorney shall attach a copy of relevant reports, transcripts or other written material. All information in the possession of the deputy district attorney pertaining to the alleged misconduct shall be delivered to JSID as soon as possible. If the deputy district attorney is aware of additional facts that support or mitigate the allegation(s), that information shall be included in the required memorandum.

The Head Deputy or Deputy-in-Charge shall also prepare a separate memorandum setting forth an analysis of the alleged misconduct. The Head Deputy or Deputy-in-Charge shall forward a copy of both memoranda to the Head Deputy of JSID and the appropriate Bureau Director. The deputy district attorney shall re-evaluate the sufficiency of the evidence for the pending case.

If the allegations affect the integrity of the prosecution, significantly weaken the case or are material to the guilt or innocence of the accused, the deputy district attorney shall immediately discuss the matter with the appropriate Head Deputy or Deputy-in-Charge, who will then determine the appropriate course of action for the pending prosecution.

At the conclusion of the case, a separate closing memorandum shall be forwarded to JSID that shall include the final disposition.

JSID shall conduct a review of the submitted memoranda and notify the involved person's employer. JSID may choose to conduct an independent investigation, request the agency initiate its own investigation or conduct a parallel or joint investigation with the involved person's agency.

CASES PRESENTED FOR FILING

Whenever a law enforcement agency presents a case for filing consideration against any member of the justice system, whether the charges involve felonies or misdemeanors, either on-duty or off-duty, the filing deputy district attorney shall immediately notify the Head Deputy of JSID.

Felonies

Whenever a member of the justice system is accused of felony criminal misconduct, the filing deputy district attorney shall immediately notify the Head Deputy of JSID. The filing deputy district attorney shall send a copy of the reports to the Head Deputy of JSID. JSID will then assume responsibility for review and prosecution unless the matter is deemed more appropriately handled by another specialized division within the office.

Misdemeanors

Whenever a member of the justice system is accused of criminal misdemeanor misconduct, the filing deputy district attorney shall immediately notify the Head Deputy of JSID. JSID may review and prosecute any referred misdemeanor matter or in turn refer it to an appropriate District Attorney branch or area office or local city prosecutor.